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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **SOPURKH KAUR KHALSA, SHAKTI**
3 **PARWHA KAUR KHALSA, and EK ONG**
4 **KAR KAUR KHALSA, Trustees of the**
5 **Yogi Bhajan Administrative Trust,**

6 Plaintiffs-Appellees,

7 **v.**

No. 34,911

8 **INDERJIT KAUR PURI,**

9 Defendant-Appellant.

10 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

11 **Sarah M. Singleton, District Judge**

12 Wray & Girard, P.C.
13 J. Katherine Girard
14 Katherine Wray
15 Albuquerque, NM

16 Sanders & Westbrook, P.C.
17 Maureen A. Sanders
18 Albuquerque, NM

19 Philip B. Davis
20 Albuquerque, NM

21 for Appellees

1 The Bowles Law Firm
2 Jason Bowles
3 Albuquerque, NM

4 The Soni Law Firm
5 Surjit P. Soni
6 Pasadena, CA

7 for Appellant

8 **MEMORANDUM OPINION**

9 **BUSTAMANTE, Judge.**

10 {1} Inderjit Kaur Puri (Appellant) appeals from the district court's post judgment
11 order on her motion to quash the subpoena issued by the trial court at the request of
12 Sopurkh Kaur Khalsa, et al., (Appellees), and for a protective order. This Court's
13 second calendar notice proposed to dismiss on the basis that the order appealed from
14 is not final and appealable. Appellees filed a memorandum in response, and Appellant
15 filed a memorandum in opposition, to this Court's proposed disposition. Not
16 persuaded by Appellant's arguments, we dismiss the appeal.

17 {2} Appellant contends that the order appealed from is immediately appealable
18 because it is a collateral order unrelated to the merits of the case, which have been
19 fully decided, and for which all appeals from the merits have been exhausted. [MIO
20 2] Appellant urges this Court to reach the merits of this appeal and determine that
21 service was improper, and that Appellant's income tax returns are statutorily

1 privileged from discovery. [Id.] Therefore, Appellant asserts, dismissal of the appeal
2 would waste the party’s resources and result in futile acts by the district court to
3 enforce what is clearly an unlawful order. [Id.]

4 {3} Specifically, Appellant argues that the order is a final, appealable order [MIO
5 3-4], and challenges this Court’s reliance on *King v. Allstate Ins. Co.*, 2004-NMCA-
6 031, ¶ 19, 135 N.M. 206, 86 P.3d 631. [MIO 5] Appellant asserts that the proposition
7 stated in *King*, that “an order compelling discovery is not a collateral order,” is
8 distinguishable and inapplicable here, *id.* ¶ 18, where a final judgment on the merits
9 of the underlying case has already been entered [MIO 5-6], and relies instead on *Breen*
10 *v. State Taxation & Revenue Department*, 2012-NMCA-101, ¶ 13, 287 P.3d 379.
11 Appellant contends that this case is akin to *Breen* because here, the underlying case
12 resulted in a final judgment, and having been affirmed on appeal, all of Appellant’s
13 rights to appeal have been exhausted. We disagree.

14 {4} In *Breen*, the defendants sought issuance of subpoenas to both the State
15 Taxation and Revenue Department and the plaintiff’s wife, requiring disclosure of tax
16 records and returns from wife, a non-party to the lawsuit. 2012-NMCA-101, ¶ 10.
17 This Court recognized that the principle in *King* did not apply because the person to
18 whom the subpoena was issued was a non-party whose “issues cannot fairly be
19 resolved at the end of a trial of the underlying case and would be unreviewable on

1 appeal from a final judgment because she is not a party to the action.” *Breen*, 2012-
2 NMCA-101, ¶ 10. Moreover, because the same subpoena was also issued to the
3 Department subpoenaing the production of the non-party’s income tax returns over
4 her objections, and she had “no power of refusal to comply with that subpoena,” a
5 contempt proceeding would not be available for appeal. *Id.* ¶ 16. However, unlike
6 *Breen*, where the “effect of the order with regard to issuing the subpoena to the
7 Department [was] also final as to resolving [wife’s] assertion of confidentiality and
8 privilege,” *id.* ¶ 16, here Appellant is a party to the action and has recourse by way of
9 refusing to comply with the subpoena and appealing from the contempt order.

10 {5} We therefore conclude that the order is not a collateral order properly
11 reviewable under Rule 12-503(E)(2)(c) NMRA because the order, at minimum, is not
12 “effectively unreviewable on appeal from a final judgment.” *Carrillo v. Rostro*, 1992-
13 NMSC-054, ¶ 16, 114 N.M. 607, 845 P.2d 130 (internal quotation marks and citation
14 omitted). Insofar as Appellant asserts that dismissing the appeal and compelling her
15 to be subjected to a contempt order to be able to seek review of an asserted unlawful
16 order is inequitable and unjust, her arguments are better directed at the Supreme
17 Court. This Court is bound by Supreme Court precedent. *State ex rel. Martinez v. City*
18 *of Las Vegas*, 2004-NMSC-009, ¶¶ 20-22, 135 N.M. 375, 89 P.3d 47.

1 {6} For the reasons stated herein, and in this Court's second calendar notice, we
2 dismiss the appeal.

3 {7} **IT IS SO ORDERED.**

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MICHAEL D. BUSTAMANTE, Judge

6 **WE CONCUR:**

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RODERICK T. KENNEDY, Judge

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11

J. MILES HANISEE, Judge